

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

491U0384

HOUSE JUDICIARY ENGROSSED NO. **SB 39** - 02/20/2013

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to establish a penalty for a juvenile convicted as an adult
2 of a Class A or B felony and allow a sentence of up to life imprisonment after a sentencing
3 hearing.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 22-6-1 be amended to read as follows:

6 22-6-1. Except as otherwise provided by law, felonies are divided into the following nine
7 classes which are distinguished from each other by the following maximum penalties which are
8 authorized upon conviction:

9 (1) Class A felony: death or life imprisonment in the state penitentiary. A lesser sentence
10 than death or life imprisonment may not be given for a Class A felony. In addition,
11 a fine of fifty thousand dollars may be imposed;

12 (2) Class B felony: life imprisonment in the state penitentiary. A lesser sentence may not
13 be given for a Class B felony. In addition, a fine of fifty thousand dollars may be
14 imposed;



- 1 (3) Class C felony: life imprisonment in the state penitentiary. In addition, a fine of fifty
2 thousand dollars may be imposed;
- 3 (4) Class 1 felony: fifty years imprisonment in the state penitentiary. In addition, a fine
4 of fifty thousand dollars may be imposed;
- 5 (5) Class 2 felony: twenty-five years imprisonment in the state penitentiary. In addition,
6 a fine of fifty thousand dollars may be imposed;
- 7 (6) Class 3 felony: fifteen years imprisonment in the state penitentiary. In addition, a fine
8 of thirty thousand dollars may be imposed;
- 9 (7) Class 4 felony: ten years imprisonment in the state penitentiary. In addition, a fine of
10 twenty thousand dollars may be imposed;
- 11 (8) Class 5 felony: five years imprisonment in the state penitentiary. In addition, a fine
12 of ten thousand dollars may be imposed; and
- 13 (9) Class 6 felony: two years imprisonment in the state penitentiary or a fine of four
14 thousand dollars, or both.

15 If the defendant is under the age of eighteen years at the time of the offense and found guilty
16 of a Class A or B felony, the maximum sentence may be life imprisonment in the state
17 penitentiary. In addition, a fine of fifty thousand dollars may be imposed.

18 The court, in imposing sentence on a defendant who has been found guilty of a felony, shall
19 order in addition to the sentence that is imposed pursuant to the provisions of this section, that
20 the defendant make restitution to any victim in accordance with the provisions of chapter 23A-
21 28.

22 Nothing in this section limits increased sentences for habitual criminals under §§ 22-7-7,
23 22-7-8, and 22-7-8.1.

24 Section 2. That § 23A-27-1 be amended to read as follows:

1 23A-27-1. Sentences shall be imposed without unreasonable delay, but not within forty-eight
2 hours after determination of guilt. A defendant may waive the forty-eight hour delay. Before
3 imposing a sentence, a court may order a hearing in mitigation or aggravation of punishment.
4 If the defendant is a juvenile convicted as an adult of a Class A or Class B felony, prior to
5 imposing a sentence, the court shall conduct a presentence hearing. At such hearing, the court
6 shall allow the defense counsel an opportunity to speak on behalf of the defendant and shall
7 address the defendant personally and ask him if he wishes to make a statement in his own behalf
8 and to present any information in mitigation of punishment. The prosecuting attorney shall have
9 an equivalent opportunity to speak to the court. The circumstances must be presented by the
10 testimony of witnesses examined in open court, except that a witness' deposition may be taken
11 by a magistrate in accordance with chapter 23A-12. In imposing a sentence, the court shall enter
12 an order of restitution in accordance with chapter 23A-28.